

REMARKS

The Examiner has rejected claims 1-6 under 35 U.S.C. Section 112 as being indefinite in that applicant is asserted to claim a post-tensioning tendon in claim 1, but claims in claims 2-6 an additional longitudinal element that appears to be performing the same function as the tendon. Applicant respectfully disagrees. Claim 2 is dependent on claim 1; claims 3-6 are dependent on claim 2. Claim 2 is directed to a further definition of the post-tensioning tendon of claim 1, specifically that the post-tensioning tendon is comprised of two sub-elements, a longitudinal segment and anchorage members. There is no ambiguity. Nonetheless, the specification, at the second paragraph of page 5, has been amended to recited that the post-tensioned assembly includes both the tendon 16 and the anchorage plates 18 and the wording of claims 1 and 2 have been amended accordingly. Reconsideration and withdrawal of the 112 rejection is respectfully requested.

Claims 1-3 and 6 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Lejeune in view of Presswalla. This ground of rejection is respectfully traversed. The Lejeune reference is irrelevant to the present application. Lejeune deals with a completely different type of panel wherein the cables 22, 23 are pre-stressed (see paragraphs 0021-0023) as opposed to being post-tensioned as in the present application. The differences between these systems are explained on page 2 of the present application. As is clearly shown in the figures of Lejeune, the prestressed cables 22, 23 are embedded in the concrete 18 (see Fig. 1) and cannot, therefore act as post-tensioned systems as recited in the present claims. While it is admitted that it was known at the time to post-tensioning tendons in concrete panels (as in the Presswalla reference cited by the examiner), Applicant strenuously refutes any assertion that "it would have been obvious to those having ordinary skill in the art to use a post-tensioned tendon in place of a pre-stressed tendon, because the post-tensioned tendon can be tensioned the desired amount after the panel has been installed" or that post-tensioned and pre-stressed tendons can be used "interchangeably since they are functionally equivalent." This assertion is wholly unsupported by any authority and is contrary to physics and engineering principles. No one skilled in the art would agree with the statement that post-tensioned tendons and prestressed tendons can be used interchangeably. They are wholly separate systems and are subject to wholly different physical principles and give rise to concrete panels with completely distinct characteristics. By way of example, prestressed cables are placed in plastic concrete and upon

curing of the concrete are embedded in it. The stress in the cables acts on the concrete throughout the embedded length of the cable. In contrast, the post-tensioned tendons are not embedded in the concrete and act only at anchorage points. The characteristics of wall formed using the distinct systems are completely different and they can in no way be used interchangeably. In combining references under 103(a), the examiner is required to show that there is some teaching or suggestion of the combination being asserted. No such teaching or assertion has been identified. Moreover, the mere assertion that something would be obvious to one of ordinary skill in the art, without the citation to any support, is not a proper base of rejection, and in particular where the basis of the assertion is plainly wrong. The rejection of claims 1-3 and 6 under 103(a) should be reconsidered and withdrawn.

The rejections of the other claims are also all based on the same misapplication of Lejeune and Presswalla. It is respectfully requested that these rejections also be reconsidered and withdrawn in view of the arguments made above.

The application has been amended to correct minor informalities, to further distinguish the application over the prior art, and to more particularly point out and distinctly claim the subject matter which Applicant regards as the invention so as to place the application, as a whole, into a prima facie condition for allowance. Great care has been taken to avoid the introduction of new subject matter into the application as a result of the foregoing modifications.

Accordingly, the purpose of the claimed invention is not taught nor suggested by the cited references, nor is there any suggestion or teaching which would lead one skilled in the relevant art to combine the references in a manner which would meet the purpose of the claimed invention. Because the cited references, whether considered alone, or in combination with one another, do not teach nor suggest the purpose of the claimed invention, Applicant respectfully submits that the claimed invention, as amended, patentably distinguishes over the prior art, including the art cited merely of record.

Based on the foregoing, Applicant respectfully submits that its claims 1-11, as amended, is in condition for allowance at this time, patentably distinguishing over the cited prior art. Accordingly, reconsideration of the application and passage to allowance are respectfully solicited.

The Examiner is respectfully urged to call the undersigned attorney at (515) 288-2500 to discuss the claims in an effort to reach a mutual agreement with respect to claim limitations in the

present application which will be effective to define the patentable subject matter if the present claims are not deemed to be adequate for this purpose.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Kent A. Herink", written over a horizontal line.

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